

IN RE: PETITION FOR SPECIAL HEARING
S/S Glendale Avenue, 30' E of
the c/l of Old Harford Road
(2801 Glendale Avenue)
9th Election District
6th Councilmanic District
Michael S. Tucker
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing for the subject property known as 2801 Glendale Avenue, located in the Parkville area of northeastern Baltimore County. The Petition was filed by the owner of the property, Michael S. Tucker. Mr. Tucker seeks a special hearing to approve the nonconforming use of the subject property as a two-apartment dwelling in accordance with the site plan submitted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Michael Tucker, legal owner, and his father, George Tucker. There were no Protestants present.

Testimony indicated that the subject property consists of 0.088 acres, more or less, zoned D.R. 5.5 and is improved with a two-story brick dwelling containing two apartments. The Petitioner testified that the subject dwelling was built as a two-apartment dwelling in 1947 and that it has been used continuously and without interruption as such since that time. Mr. Tucker presented a historical breakdown of the property's use and affidavits attesting to the nonconforming status of these two apartments. Further testimony revealed that Mr. Tucker currently resides in the first floor apartment and has a tenant in the second floor apartment.

As with all nonconforming use cases, the first task is to determine whether a lawful nonconforming use existed on the subject property

prior to the year in which a change in the zoning regulations caused the use of the property to become illegal. It should be noted that two-apartment dwellings were permitted as of right until March 31, 1955.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

"(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

(b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

McKemy v. Baltimore County, Md., Supra.

After due consideration of the testimony and evidence presented, it is clear that the subject property has been used continuously and with-

out interruption as a two-apartment dwelling since prior to 1955, and as such, enjoys a legal nonconforming use. Therefore, the relief sought herein should be granted.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 28th day of February, 1994 that the Petition for Special Hearing seeking approval of the nonconforming use of the subject property as a two-apartment dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioner is hereby made aware that there is a 30-day appeal period from the date of this Order and that if, for whatever reason, this Order is reversed, the relief granted herein would be rescinded.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 2/28/94
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

February 28, 1994

(410) 887-4386

Mr. Michael S. Tucker
2801 Glendale Avenue
Parkville, Maryland 21234

RE: PETITION FOR SPECIAL HEARING
S/S Glendale Avenue, 30' E of the c/l of Old Harford Road
(2801 Glendale Avenue)
9th Election District - 6th Councilmanic District
Michael S. Tucker - Petitioner
Case No. 94-266-SPH

Dear Mr. Tucker:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

File



Petition for Special Hearing
94-266-SPH
to the Zoning Commissioner of Baltimore County

for the property located at 2801 GLENDALE AVE. PARKVILLE 21234
which is presently zoned DR5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

A NON-CONFORMING USE TO ALLOW THE CONTINUANCE OF A TWO (2) APARTMENT DWELLING AT 2801 GLENDALE AVE. WHICH IS CURRENTLY ZONED DR5.5. JUSTIFICATIONS FOR SUCH APPROVAL ARE ATTACHED.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning, regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee
Type or Print Name
Signature
Address
City
State
Zip Code
Attorney for Petitioner
Type or Print Name
Signature
Address
City
State
Zip Code

NAME
MICHAEL S. TUCKER
Signature
Michael S. Tucker
Type or Print Name
Address
2801 GLENDALE AVE. 6655716
PARKVILLE MD 21234
City
State
Zip Code
Name
ALICE
Address
City
State
Zip Code

ESTIMATED LENGTH OF HEARING
the following date
ALL
REVIEWED BY [Signature] DATE 11/4/94

2801 GLENDALE AVE
BALTIMORE MD 21234
JANUARY 4, 1994

ZONING COMMISSIONER
BALTIMORE COUNTY
OFFICE OF ZONING ADMINISTRATION
AND DEVELOPMENT MANAGEMENT
111 WEST CHESTNUT AVE (RM 109)
TOWSON, MARYLAND 21204

DEPT. COMMISSIONER

ENCLOSED PLEASE FIND THE "APPLICATION PACKAGE" PERTAINING TO THE SPECIAL HEARING FOR MY HOME LOCATED AT 2801 GLENDALE AVE. INCLUDED ARE:

1. THREE (3) COPIES OF THE PETITION, WITH ATTACHMENTS.
2. TWELVE (12) COPIES OF THE PLAT, WITH ATTACHMENT.
3. THREE (3) COPIES OF THE PROPERTY DESCRIPTION.
4. ONE (1) COPY OF THE OFFICIAL ZONING MAP.

I TRUST, AFTER THE HEARING AND YOUR REVIEW OF THE ABOVE, YOU WILL APPROVE MY PETITION.

VERY TRULY YOURS:
Michael S. Tucker
MICHAEL S. TUCKER
PETITIONER.

"A HISTORY OF PROPERTY"
2801 GLENDALE AVE - PARKVILLE 21234
LOT # 146 - HARFORD CANY
PLAT BOOK CMB JR. No. 12 - FOLIO 74 - BALT CO.

JUNE 25, 1946 = PROPERTY SOLD TO A.J. WATKINS & SONS INC BY AMERICAN NATIONAL BLDG & LOAN ASSOC; LIBER #R351459, FOLIO 420.

1946 - 1947 = A TWO (2) STORY, TWO (2) UNIT APARTMENT DWELLING WAS CONSTRUCTED ON THE PROPERTY AND HAS REMAINED IN CONTINUOUS USE AS A TWO (2) STORY APARTMENT DWELLING EVER SINCE. (SEE AFFIDAVITS ATTACHED OF ALBERT AND WAVA GALLAS, 2809 GLENDALE AVE, RESIDENTS FROM 1948 - PRESENT; MARIE GEISEL, 2813 GLENDALE AVE, RESIDENT FROM 1948 - PRESENT; JEAN EVANS (AKA JEAN EVANS GREEN), RESIDENT FROM 1948-1968 AT 2810 GLENDALE AVE.

NOVEMBER 14, 1963 = SOLD TO JAMES W. BROWN & SONS; LIBER #R64239, FOLIO 342 AND CONTINUED AS A TWO (2) STORY APARTMENT DWELLING (SEE AFFIDAVITS).

SEPTEMBER 14, 1965 = SOLD TO MARGARET C. EVANS (MOTHER OF JEAN EVANS) WHO MOVED FROM 2810 TO 2801 AND CONTINUED USE AS A TWO (2) APARTMENT DWELLING. MARGARET EVANS DIED IN AUGUST 1978 AND LEFT PROPERTY TO JEAN EVANS WHO CONTINUED TO MAINTAIN IT AS A TWO (2) APARTMENT DWELLING FROM 1978-1986 (SEE AFFIDAVITS)

PAGE 1 of 2

"A HISTORY OF PROPERTY" #265

MARCH 14, 1986 = SOLD TO GEORGE L. LOWE; LIBER EHKJR 7119, FOLIO 44 AND MAINTAINED AS A TWO (2) APARTMENT DWELLING (SEE AFFIDAVIT. NOTE, GEORGE LOWE WAS A TENANT OF JEAN EVANS).

MARCH 21, 1990 = SOLD TO MICHAEL S. TUCKER; LIBER 8443, FOLIO 528, WHO LIVES ON THE PROPERTY AND CONTINUES TO MAINTAIN IT AS A TWO (2) APARTMENT DWELLING

PAGE 2 of 2

EXAMPLE 3 - Zoning Description - 3 copies

Three copies are required. Copies of deeds cannot be used in place of this description. Use this fill-in format provided whenever possible; otherwise, type or print on 8-1/2" x 11" sheet.

ZONING DESCRIPTION FOR 2801 GLENDALE AVE
(address)
Election District 9 Councilmanic District 6

Beginning at a point on the SOUTH side of GLENDALE AVE (street on which property fronts) which is FIFTY FEET (50') (number of feet of right-of-way width)
wide at a distance of SEVENTEEN AND ONE-HALF FEET (17 1/2') (number of feet) (north, south, east or west) of the centerline of the nearest improved intersecting street OLD HARFORD RD (name of street)
which is THIRTY FIVE FEET (35') wide. *Being Lot # 146.
Block , Section in the subdivision of HARFORD CREEK (name of subdivision)
Book CW 12-187 1/2, Folio 74, containing 3854 SQ. FT. (6089 ACRES) (square feet and acres)

*If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed Liber , Folio " and include the measurements and directions (metes and bounds only) here and on the plat in the correct location.

Example of metes and bounds: N. 87° 12' 13" E. 321.1 ft., S. 18° 27' 02" E. 87.2 ft., S. 62° 39' 00" W. 318 ft., and N. 08° 15' 22" W. 80 ft. to the place of beginning.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 9th Date of Posting 1/22/94
Posted for: Special Hearing
Petitioner: Michael S. Tucker
Location of property: 2801 Glendale Ave, 30' E of c/l Old Harford Rd
Location of Sign: Front, rear, and side
Remarks:
Posted by: Michael S. Tucker Date of return: 1/22/94
Number of Signs: 1

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the proposed rezoning of the property located in Room 106 of the County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204, as follows:

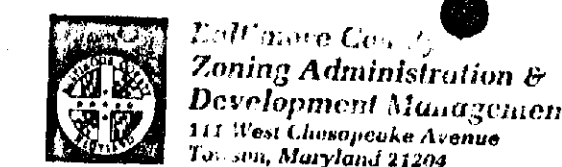
Case Number: 94-266-SPH (Item 265)
2801 Glendale Avenue
S/S Glendale Avenue, 30' E of c/l Old Harford Road
9th Election District - 6th Councilmanic District
Petitioner(s): Michael S. Tucker
HEARING: MONDAY, FEBRUARY 14, 1994 at 9:00 a.m. in Rm. 118, Old Courthouse.

Special Hearing to approve a non-conforming use to allow the continuance of a two-apartment dwelling.
LAWRENCE E. SCHMIDT, Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are handicapped accessible. For special accommodations, please call 887-3353.
(2) For information concerning the file and/or hearing, please call 887-3391.
1/165 January 20.

CERTIFICATE OF PUBLICATION

TOWSON, MD., 1/20, 1994
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1/20, 1994.

THE JEFFERSONIAN,
A. Hemmick
LEGAL AD. - TOWSON
Publisher



Date 1/4/94

Tucker, Michael - 2801 Glendale Avenue

010 - Res. Single Variance - \$ 50.00
080 - 1 sign - \$ 35.00
\$ 85.00

Cashier Validation

Please Make Checks Payable To: Baltimore County

receipt

94-266-SPH

Account: R0016150

Number

Item # 265

Taken In By: TSTXK

Item Number: 265
Planner: MJK
Date Filed: 1-4-94

PETITION PROCESSING FLAG

This petition has been accepted for filing, after an initial review, and has been placed on the agenda for the zoning advisory committee. However, the following items were found to be missing or incomplete when the petition was included on the agenda by Sophia. A copy of this "flag" will be placed in the case file for the Zoning Commissioner's review. The planner that accepted the petition for filing has the option of notifying the petitioner and/or attorney prior to the hearing or Zoning Commissioner's review of the petition regarding the items noted below. If the petitioner/attorney is contacted by the planner, it is the petitioner's ultimate decision and responsibility to make a proper application, address any zoning conflicts, and to file revised petition materials if necessary. Delays and unnecessary additional expenses may be avoided by correcting the petition to the proper form.

Need an attorney ✓
The following information is missing:
_____ Descriptions, including accurate beginning point
_____ Actual address of property
_____ Zoning
_____ Acreage
_____ Plats (need 12, only submitted)
_____ 200 scale zoning map with property outlined
_____ Election district
_____ Councilmanic district
_____ BCR section information and/or wording
_____ Hardship/practical difficulty information
_____ Owner's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number
_____ Contract purchaser's signature (need minimum 1 original signature) and/or printed name and/or address
_____ Signature (need minimum 1 original signature) and/or printed name and/or title of person signing for legal owner/contract purchaser
_____ Power of attorney or authorization for person signing for legal owner and/or contract purchaser
_____ Attorney's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number
_____ Notary Public's section is incomplete and/or incorrect and/or commission has expired
_____ RECEIPT SAYS "RES. ZONING VARIANCE", BUT A SPECIAL HEARING WAS FILED

PET-FLAG (TXTSOPH)
11/17/93

Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

Arnold Jablon
ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 265
Petitioner: Michael S. Tucker
Location: 2801 Glendale Ave
PLEASE FORWARD ADVERTISING BILL TO:
NAME: Michael S. Tucker
ADDRESS: 2801 Glendale Ave
Parkville, MD 21234
PHONE NUMBER: 665-3716

Allegis (Revised 04/09/93)

TO: PUTNEM PUBLISHING COMPANY
January 20, 1994 Issue - Jeffersonian

Please forward billing to:
Michael S. Tucker
2801 Glendale Avenue
Baltimore, Maryland 21234
665-3716

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-266-SPH (Item 265)
2801 Glendale Avenue
S/S Glendale Avenue, 30' E of c/l Old Harford Road
9th Election District - 6th Councilmanic District
Petitioner(s): Michael S. Tucker
HEARING: MONDAY, FEBRUARY 14, 1994 at 9:00 a.m. in Rm. 118, Old courthouse.

Special Hearing to approve a non-conforming use to allow the continuance of a two-apartment dwelling.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) & (3) INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

NOTICE OF HEARING

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Special Hearing to approve a non-conforming use to allow the continuance of a two-apartment dwelling.

Arnold Jablon
Director

cc: Michael S. Tucker
Charles Armstrong

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

February 8, 1994

Mr. Michael S. Tucker
2801 Glendale Avenue
Parkville, Maryland 21234

RE: Case No. 94-266-SPH, Item No. 265
Petitioner: Michael S. Tucker
Petition for Special Hearing

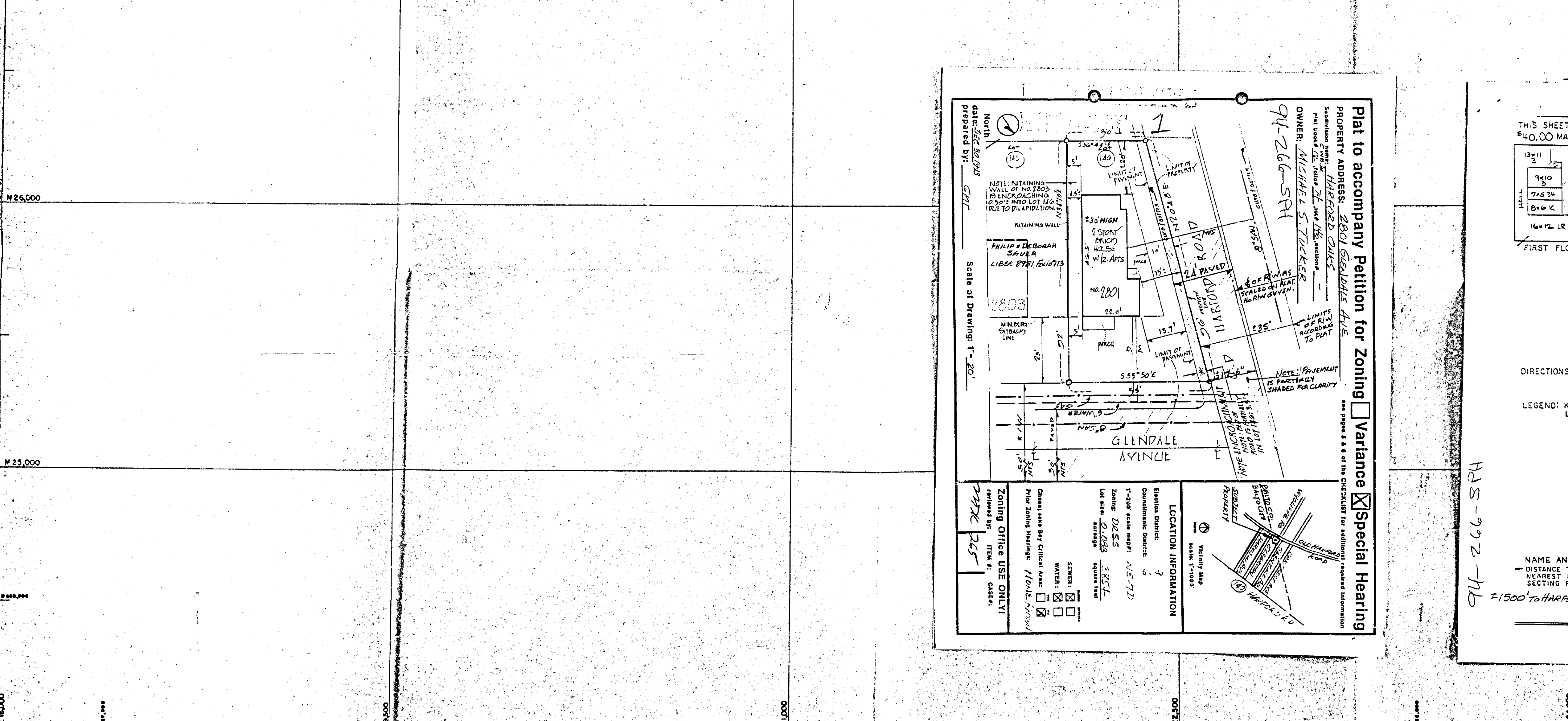
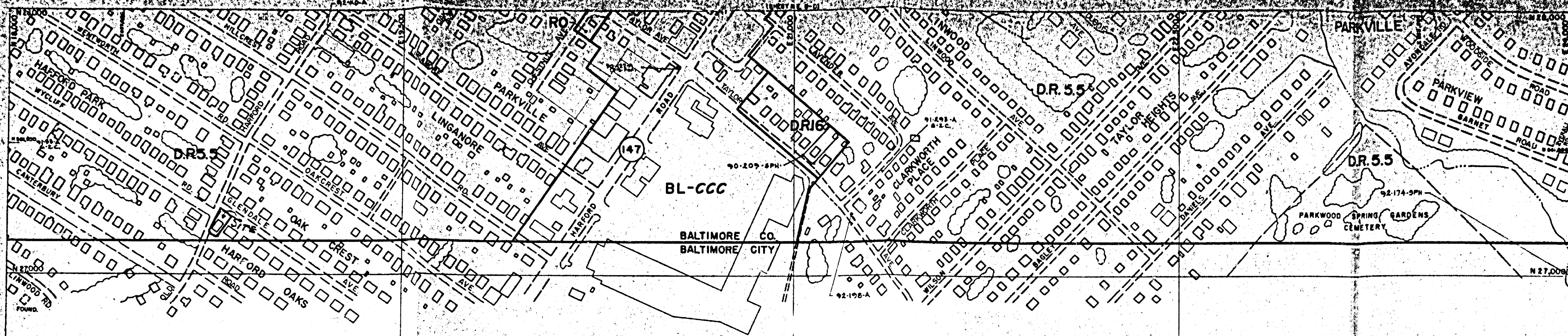
Dear Mr. Tucker:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

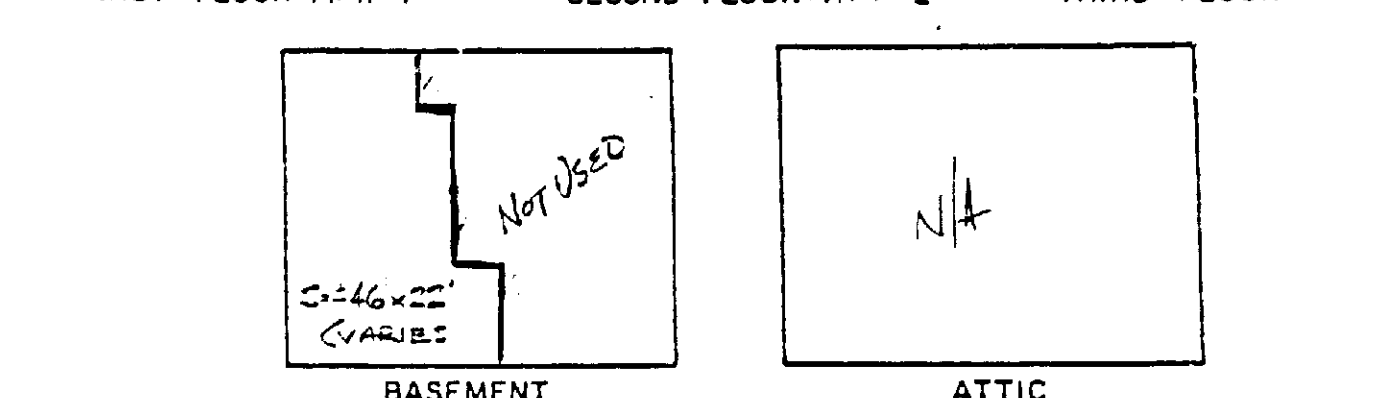
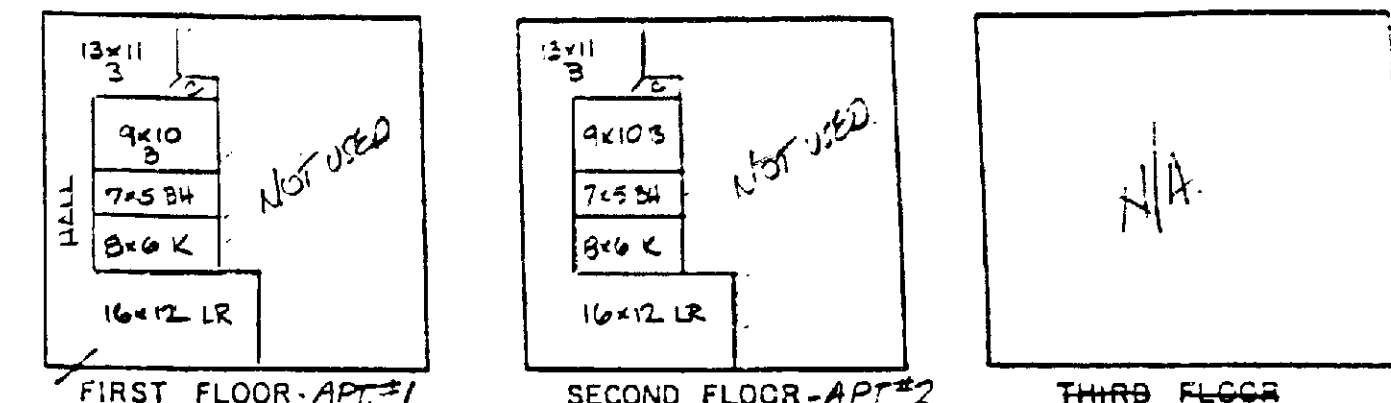
Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on January 4, 1994, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The Director of Zoning Administration and Development Management has instituted a system whereby interested zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

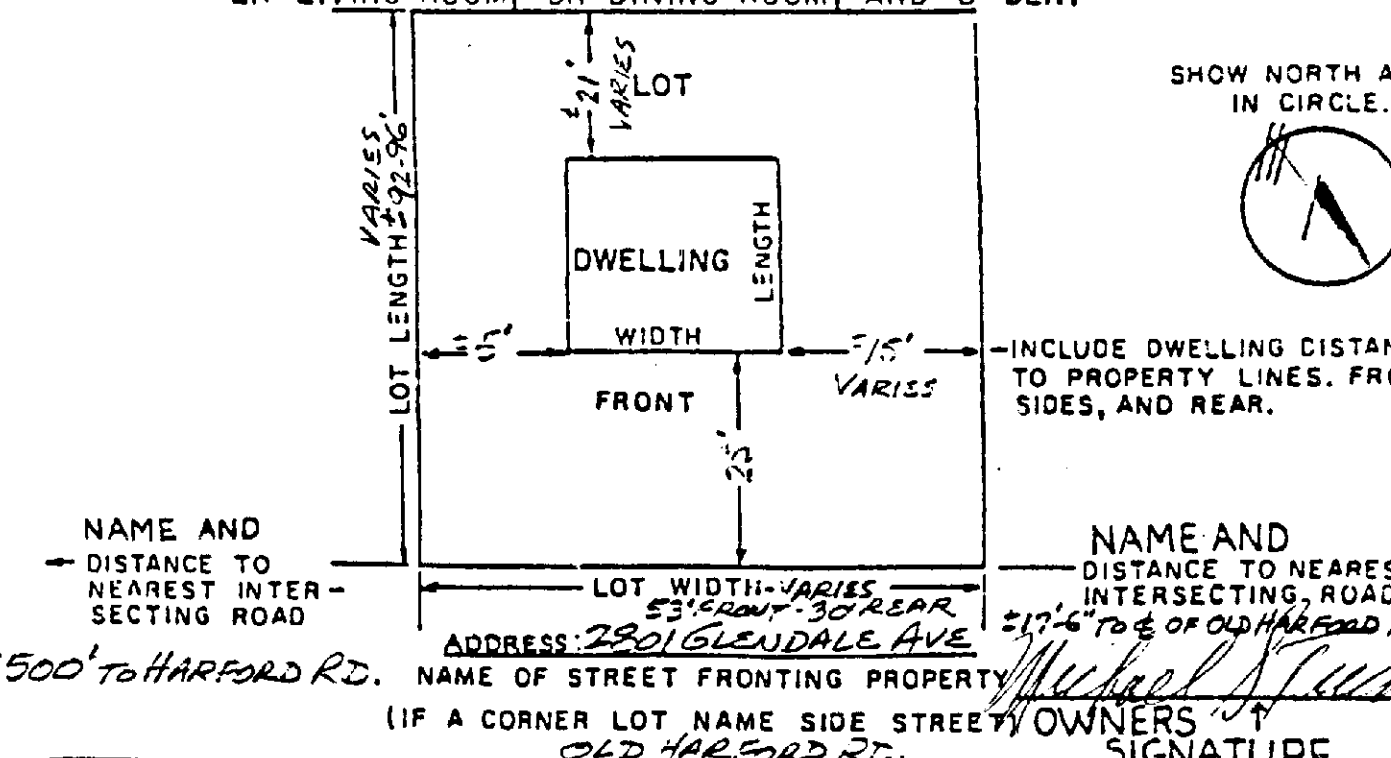


THIS SHEET TO BE SUBMITTED WITH 2 APARTMENT AFFIDAVIT AND A CHECK FOR \$40.00 MADE PAYABLE TO: BALTIMORE COUNTY, MARYLAND



DIRECTIONS: DRAW IN EACH ROOM AND MARK ITS USE/LENGTH AND WIDTH. MARK WHICH FLOOR HAS APARTMENT. IF DWELLING IS SEMI DETACHED USE 1 SHEET FOR EACH APARTMENT.

LEGEND: K=KITCHEN, B=BEDROOM, BH=BATH, S=STORAGE, C=CLOSET, LR=LIVING ROOM, DR=DINING ROOM, AND D=DEN.



NAME AND DISTANCE TO NEAREST INTERSECTING ROAD

NAME AND DISTANCE TO NEAREST PROPERTY LINE

NAME OF STREET FRONTING PROPERTY

(IF A CORNER LOT NAME SIDE STREET OWNERS)

SIGNATURE

DATE

SCALE

LOCATION

SHEET

NE

7-D

#265